

# **Legal Issues Meeting Agenda**

## **Thursday- January 18, 2007**

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### **I. Welcome/Introductions**

### **II. Overview of Consumer-Directed Care**

### **III. Overview/Discussion of Issues**

- Federal, State, and Local Laws/Regulations
  - Workman's Compensation
  - Nurse Practice Act
  - Medicaid Waiver
  - Labor Laws
  
- Liability
  
- Worker Status
  
- Review of DDD Program

### **IV. Timelines/Goals/Objectives**

### **V. Future Meeting Dates**

### **VI. Responsibilities for Next Meeting**

### **VII. Adjournment**

# Consumer Directed Care – Legal Issues Sub-Group

Date of Meeting: January 18, 2007

Minutes Prepared By: Jakenna Lebsock

## 1. Purpose of Meeting

- Member Introductions
- Overview of Consumer Directed Care
- Discussion Topics for Consideration
- Define Goals and Objectives for Sub-Group
- Identify Items Needing Further Research
- Define Meeting Framework

## 2. Attendance at Meeting

Name	Company
Jakenna Lebsock	P/GLTC
Karole MacFarlane	Member Representative
Phil Pangrazio	ABIL
Gina Relkin	AHCCCS
Alan Schafer	AHCCCS

*Absent:* Ez Bachand, Member; Dr. Judy Beckner, Mercy Care Plan; Andrew Benavidez, P/GLTC; April Charpiot, Member; Jana Cheatwood, Mosaic; Heather Coonan, Disability Solutions, Inc.;

## 3. Meeting Notes, Decisions, Issues

The meeting started with a welcome and introductions. A brief overview of consumer-directed care was provided. Arizona is looking to establish a straight-forward model where the consumer will be the employer of his or her attendant. The consumers will most likely have a Fiscal Intermediary that will provide support and carry out the administrative functions of the program. The program design will include information from other states; however, the program will be tailored to fit the specific needs of Arizona. At this time, CDC will only involve attendant care.

### Q. Will the program be limited to a certain number of hours a month?

The program will be self-limiting; it will have to be cost effective. Consumers will have to make choices based on their own personal needs.

Some states categorize clients – i.e “D” clients get \$1,500/month, “R” clients get \$1,000/month, etc. Based on that model, consumers know their budgets and can then decide how much to pay their attendants. Other programs allow extra money to go towards non-service items (home mods, etc.). AHCCCS already

allows for these items so this kind of structure is not necessary at this point.

**Q. Is the Arizona program looking to set a range of wages?**

At this time, it is unsure how wages will be structured.

*FEDERAL, STATE, AND LOCAL LAWS*

Alan and Pat will be meeting with a fiscal intermediary, Consumer Direct Personal Care, to discuss FI's as well as to ask questions about setting up Arizona's program.

- Health insurance is a major concern that will be discussed; it is not affordable and few caregivers actually end up with insurance.
- Workman's compensation will be another major topic.

*NURSE PRACTICE ACT*

This topic will be discussed with the Board of Nursing. Most likely, there will not be a problem with attendant's providing services like giving consumers Tylenol, Ibuprofen, etc. as long as they do so under the Consumer Directed Care model. The consumer MUST be competent.

Consumer Direction and Skilled Care: When discussing skilled care within CDC, it cannot be associated with "delegation". There is specific language in the Nurse Practice Act that dictates how skilled care can be discussed. Consumers must initiate the hiring of an attendant in order to avoid legal trouble. Sue Reinhart will be providing a primer that covers the "delegation" issue.

*LABOR LAWS*

The fiscal portion of this topic will work itself out. One of the biggest factors to consider will be how to terminate an employee at will.

*LIABILITY*

The biggest issue will be the ability to cover the worker.

**Q. Will consumers need to pay for a minimum amount of workman's compensation?**

This will be looked into. Fiscal intermediaries may be required to offer liability insurance to consumer. FI's may be able to purchase group insurance and then include the costs in consumer deductions.

**Q. What will be the incentive for the worker to be a personal attendant rather than work through an agency? Especially if there is not much coverage in terms of liability, etc?**

This will have to be addressed; more information will be available later.

*ISSUES THAT NEED TO BE ADDRESSED*

- Do consumers have to have liability insurance? What about workers? Does the program itself need some kind of liability coverage?

*MEETING HANDOUTS*

- You Call the Tune: The Promise and Challenge of Consumer-Directed Care; Arizona Policy Primer
- Addressing Liability Issues in Consumer-Directed Personal Assistance Services, Executive Summary

#### 4. Action Items

<i>Action</i>	<i>Assigned to</i>	<i>Due Date</i>	<i>Status</i>
Schedule a representative from the AZ Board of Nursing to participate at next meeting	Jakenna	Set up asap; presentation will be on 2/15/07	Contact has been made with the Board; waiting on a response
May want to see if Sue Reinhart can attend a meeting in the near future.	Alan/Jakenna		

#### 5. Next Meeting

<i>Date:</i>	<i>February 15, 2007</i>	<i>Time:</i>	<i>1:30-3:30</i>	<i>Location:</i>	<i>AHCCCS, (701 E. Jefferson, Phoenix) – Aspen Room, 3<sup>d</sup> Floor</i>
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